U.S. Citizenship and Immigration Services

Non-Precedent Decision of the Administrative Appeals Office

In Re: 19594924

Date: DEC. 06, 2021

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a principal research engineer, seeks second preference immigrant classification as an individual of exceptional ability in the sciences, arts or business, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). After a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016).

The Director of the Texas Service Center determined that the Petitioner qualifies for the underlying classification and that his proposed endeavor has substantial merit. Nevertheless, the Director denied the petition, concluding that the evidence did not establish that the proposed endeavor is of national importance, that he is well positioned to advance his endeavor, or that a waiver of the requirement of a job offer would be in the national interest. Accordingly, the Director determined that the Petitioner had not established eligibility for a national interest waiver.

The matter is now before us on appeal. The Petitioner reasserts his eligibility, arguing that the Director did not properly weigh the evidence and erred in the decision.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification (emphasis added), as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this

classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

> (2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –
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> (A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.
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> (B) Waiver of job offer –
>
> (i) National interest waiver. . . . [T]he Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien's services in the sciences, arts, professions, or business be sought by an employer in the United States.

Section 101(a)(32) of the Act provides that "[t]he term 'profession' shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries."

The regulation at 8 C.F.R. § 204.5(k)(2) contains the following relevant definitions:

> Advanced degree means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master's degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.
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> Exceptional ability in the sciences, arts, or business means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.
>
> Profession means one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation.

In addition, the regulation at 8 C.F.R. § 204.5(k)(3)(ii) sets forth the specific evidentiary requirements for demonstrating eligibility as an individual of exceptional ability. A petitioner must submit

documentation that satisfies at least three of the six categories of evidence listed at 8 C.F.R. § 204.5(k)(3)(ii).

Furthermore, while neither the statute nor the pertinent regulations define the term "national interest," we set forth a framework for adjudicating national interest waiver petitions in the precedent decision Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016). In announcing this new framework, we vacated our prior precedent decision, Matter of New York State Department of Transportation, 22 I&N Dec. 215 (Act. Assoc. Comm'r 1998). Dhanasar states that after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may grant a national interest waiver as matter of discretion. See also Poursina v. USCIS, 936 F.3d 868, 2019 WL 4051593 (9th Cir. 2019) (finding USCIS' decision to grant or deny a national interest waiver to be discretionary in nature). As a matter of discretion, the national interest waiver may be granted if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. See Dhanasar, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

II. ANALYSIS

A. National Importance

The Director concluded that the Petitioner qualifies for the underlying classification as a professional holding an advanced degree. The record reflects that the Petitioner earned a U.S. doctoral degree in mechanical engineering in 2008. The remaining issue to be examined is whether the Petitioner qualifies for a national interest waiver under the Dhanasar framework.

The Petitioner stated on his Form I-140 that as a principal research engineer, he would work on "external configuration analysis for [redacted] engines, life analysis for [redacted] engine cold section and structural analysis for [redacted] mounting system and lubrication system" (errors in original). In the Petitioner's initial cover letter, he stated that his proposed endeavor is "to continue his work on conducting external configuration analysis for [redacted] engines" and that he uses computer-aided engineering (CAE) technology to conduct his research. He explained that his "expertise with [CAE] is valuable for simulating engineering problems for a range of industries" and that "[t]hese applications include stress and dynamics analysis on components and assemblies using [redacted] and mechanical event simulation." The Petitioner also described his current work as engine development for the [redacted] program, which involves replacing old [redacted] with next generation [redacted] engines. He stated that this work is ongoing and is a collaboration between [redacted] and [redacted]. Specifically, the Petitioner noted that he "secured a position with [redacted] where he works with the structural design team and is responsible for external configuration of [redacted] engines," which involves conducting [redacted] analysis and [redacted] analysis. The Petitioner provided a letter from another principal research engineer, [redacted] stating that in February 2017, the Petitioner accepted a position as principal research engineer in the structure design team of [redacted] as a member of a collocated team to develop [redacted] engines with [redacted] characterized the role as a research position.

Aside from this, the Petitioner offered very little additional detail concerning the specifics of his proposed endeavor. Instead, he largely provided information concerning his past research and achievements. For instance, the Petitioner stated that he developed a structural analysis technology for the [redacted] of a Korean [redacted] vehicle [redacted] and that he developed the CAE technology for the structural analysis of the engines. He provided several recommendation letters in which the authors describe the Petitioner's past work and provide their opinions on the national importance of the Petitioner's past achievements.

Primarily, the Petitioner and the authors of the recommendation letters asserted that the Petitioner's work contributes significantly to making vehicles safer and that CAE is valuable and applicable to a range of important industries. [redacted] a professor of automotive engineering, wrote in his recommendation letter that the value of the Petitioner's research is rooted in its economic benefits and relevance to [redacted] and that the Petitioner's current research "has benefitted and will continue to benefit the study and development of new [redacted]." Other authors also emphasized the importance of the Petitioner's work in vehicle safety, such as [redacted] who stated that the Petitioner's research is valuable not only for improving vehicle safety but that it also holds massive economic value. [redacted] noted that the Petitioner's research has focused on [redacted] engine technology for [redacted] and that this relates to furthering [redacted] mission and values, which is of great importance to the United States. He further stated that the Petitioner's research is valuable to the mechanical engineering community and that his CAE technology for [redacted] "effectively determines whether a [redacted] is capable of enduring the various extreme static and dynamic conditions that it will undergo during [redacted]."

The Director issued a Notice of Intent to Deny (NOID) the petition informing the Petitioner that, among other shortcomings, the record did not reflect the potential prospective impact that the Petitioner's research would have nor did the record sufficiently convey the nature of the Petitioner's ongoing work with [redacted] Additionally, the Director noted that the Petitioner had not demonstrated how research for a Korean [redacted] vehicle would be nationally important for the United States, how the Petitioner's research would be available to the public or the United States, or how his work would have direct applicability to U.S. issues or interests. Finally, considering that the Petitioner proposed an endeavor involving [redacted] engine analysis, the Director informed the Petitioner that he had not established the relevance of the articles he submitted about automobile safety.

In his NOID response, the Petitioner asserted that the proposed endeavor of using CAE techniques for multiple applications, including [redacted] engines, is of national importance. He explained that [redacted] collaborates with [redacted] to develop [redacted] engines for which his CAE techniques are needed in order to perform the [redacted] and [redacted] analysis. The Petitioner asserted that [redacted] engines power numerous [redacted] including U.S. [redacted] and that the widespread use of [redacted] engines means that a collaboration with [redacted] is important to the national interests of the United States.

He further clarified that his research involving CAE and [redacted] have applications in a wide range of industries, including commercial and military vehicles, [redacted] engines, and nuclear reactors and structures, and a broad spectrum of other mechanical components and structures. Accordingly, the Petitioner asserted that the engineering techniques themselves are the subject of the proposed endeavor, rather than the specific industries or applications to which they are applied. In addressing the Director's concerns over the connection between the Petitioner's background in

automobile safety and his proposed endeavor of analyzing [redacted] engines, the Petitioner explained that automotive safety is connected to [redacted] safety and nuclear power structure safety due to the underlying applicability of CAE and [redacted] Furthermore, the Petitioner argued that the importance of safety in these industries confirms the national importance of the proposed endeavor. In support, the Petitioner provided statistics and articles on [redacted] crashes and fatalities.

In addition, the NOID response included a personal statement indicating that the Petitioner accepted a new position at the [redacted] and that [redacted] is a subsidiary of [redacted] the Petitioner's collocated employer at the time of filing. He emphasized that he would continue his proposed endeavor of external configuration analysis for [redacted] engines but will simultaneously extend himself into a wider area of application, which includes seismic and dynamic analysis of nuclear reactors and structures. The Petitioner provided a letter from a mechanical analysis manager, [redacted] confirming that the Petitioner had been hired as a lead seismic and dynamic analysis engineer at [redacted]. Notably, this letter does not appear on official company letterhead, but rather features a photocopy of the [redacted]'s business card appearing after his signature. Moreover, the letter does not include the Petitioner's start date in the new position or indicate that the position is a research role. Rather, the language of the letter appears to suggest that the Petitioner's research is ancillary to his seismic and dynamic analysis engineer work. [redacted] stated that the Petitioner will still remain active in research by publishing technical papers and presenting at conferences, but he did not state whether such research would involve [redacted] engines. Neither the Petitioner nor [redacted] identified how much time the Petitioner would spend on external configuration analysis for [redacted] engines versus his new duties of applying CAE and [redacted] methodologies to the structural components of nuclear plants. In addition [redacted] stated that the Petitioner mentors and coaches lesser experienced engineers on the team but did not identify how much time the Petitioner would allocate to these duties. Accordingly, the proposed endeavor as described in the NOID includes using CAE and [redacted] for external configuration analysis for [redacted] engines; using CAE and [redacted] for seismic and dynamic analysis of nuclear structures; publishing technical papers and presenting at conferences; and coaching and mentoring employees.

In his NOID response, the Petitioner preemptively argued against an improper focus on the Petitioner's change in employment rather than focusing on the proposed endeavor. The Petitioner is correct that under the Dhanasar framework, a petitioner's proposed endeavor must be of national importance. Nevertheless, a petitioner's employment is a relevant consideration as it necessarily informs what kind of prospective impact the proposed endeavor may have, which correspondingly informs whether the endeavor has national importance. In Dhanasar, we noted that "we look for broader implications" of the proposed endeavor, which informs a determination of its national importance. Id. at 889. To illustrate by example, the impact of researching while employed in a full-time academic research position differs from the impact of research performed while employed for a private sector company who seeks to patent a particular product. Therefore, while we acknowledge that the Petitioner's employment may change, it nevertheless remains the Petitioner's burden to establish the broader implications of his proposed endeavor research and how the endeavor is nationally important.

The Director ultimately determined that the Petitioner did not overcome the evidentiary deficiencies described in the NOID. For instance, the Director noted that the evidence did not establish which engines the Petitioner would be assigned to or whether the U.S. government had interest in, purchased, or contracted with [redacted] or [redacted] to produce such engines. Among other reasons that the Petitioner

had not established the national importance of the proposed endeavor, the Director noted that the Petitioner had not sufficiently explained how any of his research would be accessible to the public or the United States. The Director also noted that the Petitioner had not established how his research and publications resulted in increased [redacted] safety in the United States. In addition, the Director acknowledged the Petitioner's new position and concluded that the Petitioner shifted the focus of his proposed endeavor from analyzing [redacted] engines to the seismic and dynamic analysis of nuclear reactors and structures. Furthermore, the Director concluded that the Petitioner's new endeavor of performing structural analysis on nuclear reactors and structures arose after the initial filing of the petition and therefore could not establish his eligibility at the time of filing. Finally, the Director noted that the Petitioner had not corroborated his assertion that CAE and [redacted] are interdisciplinary in nature, nor had he established how using such research methods are nationally important.

On appeal, the Petitioner argues that the Director misunderstood the proposed endeavor and ignored his evidence and explanations. He reasserts that although the applications of his research may change, the CAE and [redacted] methods and skills applied remain the same. In our de novo review of the record, we conclude that the Petitioner materially changed his proposed endeavor. In the initial filing, the Petitioner's proposed endeavor focused on researching one specific area [redacted] engines, and that to perform this research, the Petitioner would apply CAE and [redacted] technologies. At the time of filing, he asserted that he occupied a position with [redacted] where he worked with the structural design team and was responsible for external configuration of [redacted] engines. In response to the NOID, the Petitioner accepted a new job with a separate branch of [redacted] a position which he did not occupy at the time of filing. His new role involves applying CAE and [redacted] to analyze nuclear reactors and structures, while also mentoring and coaching other engineers. In addition, the Petitioner changed his research focus away from [redacted] engines to the use of CAE and [redacted] itself, regardless of the area of application. This represents a shift away from the original subject of the proposed endeavor [redacted] engine analysis) to the means by which such analysis may be conducted.

Although the Petitioner attempted to tie the work he proposed in his initial filing to that which he described in the NOID through the underlying use of CAE and [redacted] he has not suggested that the subject of his research focus will be CAE or [redacted] itself or that the use of CAE and [redacted] is nationally important. Here, the Petitioner incorrectly assumes that if the method and means of research remain the same that the subject of the research may vary. However, as the prospective impact of the work would necessarily vary depending on the subject of the analysis, a change in the subject of the analysis materially changes the focus of the proposed endeavor. In Dhanasar, we held that a petitioner must identify "the specific endeavor that the foreign national proposes to undertake." Id. at 889. Even if we were to accept that the Petitioner will perform external configuration analysis for [redacted] engines, conduct seismic and dynamic analysis of nuclear structures and reactors, while also publishing technical papers and presenting at conferences, as well as coaching and mentoring engineers, it is not apparent from the record how he would allocate his time to each of these endeavors such that we can make a determination on the overall endeavor's national importance. Therefore, the evidence does not establish the specific nature of the Petitioner's proposed endeavor in accordance with Dhanasar.

In determining national importance, the relevant question is not the importance of the industry or profession in which the individual will work; instead, we focus on the "the specific endeavor that the foreign national proposes to undertake." See Dhanasar, 26 I&N Dec. at 889. Here, the Petitioner has yet to identify his specific proposed endeavor and appears to indicate that the subject of his research

endeavors may change as long as his research methods remain constant. We disagree. As noted by the Director, a visa petition may not be approved based on speculation of future eligibility or after the Petitioner or Beneficiary becomes eligible under a new set of facts. See Matter of Michelin Tire Corp., 17 I&N Dec. 248, 249 (Reg'l Comm'r 1978).

In determining whether an individual qualifies for a national interest waiver, we must rely on the specific proposed endeavor to determine whether (1) it has both substantial merit and national importance and (2) the foreign national is well positioned to advance it under the Dhanasar analysis. Because the Petitioner has not provided consistent information regarding his proposed endeavor, we cannot conclude that he meets either the first or second prong or that he has established eligibility for a national interest waiver.

B. Misrepresentation

The Director's NOID informed the Petitioner that it appeared as though he misrepresented his work history and positions. The Petitioner's present Form I-140 and supporting documents, filed in August 2018, indicate that he has worked as a principal research engineer since 2010. The Director also noted that the Petitioner asserted that he would continue his work as a principal research engineer conducting external configuration analysis for [redacted] engines, which implied that his prior work leading up to his Form I-140 filing had been as a principal research engineer.

By contrast, the Director noted that during the same period of time, the Petitioner's prior Form I-129 and supporting documents, which afforded him L-1A nonimmigrant status, stated that the Petitioner held different managerial positions. Specifically, the Director noted that the Petitioner claimed in his L-1A filing that he worked as an engineering manager from 2010 to 2015, as a senior engineering manager from 2015 to 2017, and that his requested prospective employment in L-1A status from 2017 to 2020 would be as a project manager. The Director emphasized that the Petitioner's project manager role in L-1A status did not include conducting external configuration analysis for [redacted] engines. Rather, the duties identified for the project manager position included overseeing and coordinating project management communications as well as managing and supervising the work performance of staff engineers.

In his NOID response, the Petitioner provided several explanations for the discrepant work histories identified within the I-140 and I-129 petitions, including that the information was not discrepant but that the Director misunderstood the information. The Petitioner explained that the Petitioner held the position of principal research engineer during the time period in question and that his employer "formed a special interdepartmental team in 2017 specifically for the next-generation [redacted] engine development program," in collaboration with [redacted] in the United States. The Petitioner assumed the role of project manager in L-1A status in the United States specifically for this project but "continued to hold the position of principal research engineer" for [redacted] outside of the United States. The Petitioner further stated that because his role as principal research engineer was with his employer outside the United States, there was no need to specify this position on the Form I-129. In support of his assertions, the Petitioner submitted organizational charts for the [redacted] team and a letter from [redacted] the Vice President of [redacted] Engine R&D Center at [redacted]

The Director found the Petitioner's NOID response insufficient to overcome the finding of misrepresentation. In the decision, the Director acknowledged [redacted]'s explanation of a newly

formed interdepartmental team in 2017 but afforded the letter little weight as the overall record did not support a finding that the Petitioner held a project manager position in the United States while simultaneously holding the principal research engineer position abroad. For instance, the Director noted that the descriptions of the work performed did not reflect that the Petitioner held both positions and the Petitioner's publication and citation history did not support a finding that the Petitioner primarily engaged in research during the relevant period. In examining the organizational chart, the Director noted that it featured the Petitioner in the role of "tech leader," which did not support a finding that he maintained dual roles as principal research engineer and project manager. The Director also reiterated the discrepancies in the Petitioner's work history prior to 2017, for which the Petitioner's NOID response did not meaningfully address. Accordingly, the Director found that the Petitioner had not overcome the finding of misrepresentation.

On appeal, the Petitioner asserts that the Director incorrectly assumed that the Petitioner could not simultaneously hold both a research position and a managerial position and therefore disregarded [redacted]'s letter explaining these dual roles. He further argues that what the Director "regards as discrepancies are conclusory assumptions based solely on 'job titles' without considering the accompanying job descriptions and supporting evidence explaining the nature of the Petitioner's specific role." The Petitioner further argues that "the evidence shows that the Petitioner in fact held concurrent roles of both research engineer and project manager for [redacted]." In support of the Petitioner's arguments on appeal, the Petitioner provides a copy of the Petitioner's prior résumé and the initial support letter that he submitted with his I-129 filing, along with articles concerning [redacted] and [redacted]'s collaboration on [redacted], and a copy of an online guide about the differences between Korean corporate job titles and U.S. job titles.

In our review of the Director's decision, we conclude that the Director did not disregard [redacted]'s letter and the Petitioner's explanations. Rather, the Director considered them and afforded them little weight as the overall record did not support such assertions. The Petitioner requests that we understand that both research and management can be performed at the same time. While we acknowledge that this is possible, we agree with the Director that the record does not support a finding that this actually occurred, primarily because the job descriptions and other evidence provided by the Petitioner do not reflect it. As the Petitioner's résumé submitted with his August 2018 I-140 filing indicates that he held a principal research position in the United States from February 2017 to the present and the initial support letter submitted with his L-1A filing indicates that he proposed to work as a project manager from February 2017 to February 2020, the Petitioner's explanation that he did not need to disclose the principal research position with [redacted] because it was outside the United States is not credible, or at the very least, perpetuates the discrepancy. The evidence provided clearly indicates that the principal research engineer position, according to the Petitioner's résumé, was in the United States. As [redacted]'s letter does not identify whether the Petitioner's principal research engineer duties were in the United States or abroad, his letter offers little in resolving the discrepancy. While we acknowledge the Petitioner's claims that the Director found discrepancies in his work history due to an improper focus on the title of the positions rather than the position descriptions, the Petitioner does not offer sufficient evidence to explain the discrepancies such that it persuasively resolves them.

We agree with the Petitioner that the title of a position is not controlling and that the duties performed within the position provide the basis for the work history and claimed experience. Nevertheless, the Petitioner bears the burden of explaining the positions such that the discrepant job titles may be

adequately resolved. Here, the Petitioner has not provided consistent and persuasive explanations of the positions and the discrepant job titles. For example, if the same title is used for multiple positions, the Petitioner must explain and document this such that it can be understood that a title is interchangeable. However, the Petitioner has not provided clear explanations in this regard. The following table notes some of the position title discrepancies and the sources of that information. As explained, the Petitioner has offered insufficient explanations and evidence to resolve these discrepancies.[1]

Position Title	Dates	Source of Information
Principal Research Engineer	2010 to present	NIW résumé
Principal Research Engineer and Analysis Engineer	2010 to unknown end date	NIW organizational chart in NOID response
Engineering Manager (Senior Research Engineer)	2010 to 2015	L-1A résumé
Principal Research Engineer	2015 to 2017	NIW Form ETA 750 Part B
Senior Engineering Manager	2015 to 2017	L-1A initial support letter
Principal Research Engineer with a position of Senior Engineering Manager, which is also called Part Leader	2015 to 2019	NIW [redacted] letter in NOID response
Project Manager	2017 to 2020	L-1A initial support letter
Principal Research Engineer and Project Manager	2017 to unknown end date	NIW [redacted] letter in NOID response
Tech Leader	unknown dates	NIW organizational chart in NOID response
Lead Seismic and Dynamic Analysis Engineer	unknown start date until present	NIW [redacted] letter in NOID response

In our review of the record, we observe the Petitioner's résumé provided with his August 2018 NIW filing states that he has held a principal research engineer position from 2010 until present, whereas the Petitioner's January 2017 L-1A initial support letter states that from 2010 onward, he held a senior engineering manager position without interruption. Although the Petitioner attempts to resolve this by explaining that he had both managerial and supervisory duties from 2010 to 2015, the descriptions in his NIW résumé reflect that he supervised only processes, research, and analysis, whereas the prospective duties in the L-1A support letter indicate that the Petitioner managed staff engineers. The L-1A support letter characterizes the Petitioner's work from 2010 to 2015 as a "senior level of managerial duties" and while we acknowledge that some of the listed duties are similar to those listed in the Petitioner's NIW résumé, many are different. The L-1A filing includes duties involving management and oversight, while the duties in the NIW filing are not managerial but involve conducting and supervising analysis. Even if we ignore the position titles, the description of the work

[1] If the information appeared in the Form I-140 National Interest Waiver petition, we label it "NIW" and if the information appeared in Form I-129 Intracompany Transferee Executive or Manager petition, we label it "L-1A."

does not reflect the same or sufficiently similar duties such that we would conclude that the Petitioner had been describing the same position.

When examining the L-1A support letter and the proposed duties he would have as a project manager in L-1A status from 2017 to 2020, we note that these duties markedly differ from the duties for the same time period provided in the Petitioner's résumé submitted with the NIW filing. Specifically, the Petitioner's L-1A support letter characterizes his proposed 2017 to 2020 role as "a key managerial position," whereas the Petitioner's NIW résumé involves work such as "leading analysis" and supervising processes, rather than anything managerial in nature. In addition, the Petitioner's NIW employment letter from [redacted] described the Petitioner's role beginning in 2017 as a "research position" and does not suggest that he also held a key managerial position at the same time. Accordingly, while we acknowledge [redacted]'s letter explaining the Petitioner's dual roles, we agree with the Director that the record does not support such an explanation. The Petitioner must resolve these inconsistencies with independent, objective evidence pointing to where the truth lies. Matter of Ho, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. Id. Simply asserting that the Petitioner held dual roles does not qualify as independent and objective evidence. Even if we accepted that the Petitioner occupied dual roles as both project manager and principal research engineer, simply encumbering two titles does not establish that he actually performed work in both roles. The Petitioner has not provided evidence, for example, of his work product in both roles or how he allocated work hours and resources to each role.

We examined the guide on Korean corporate titles, which provides cultural background but does not directly bear upon the issue in this matter, as the Petitioner's specific titles are not mentioned in this article. While titles may differ across cultures, represent different roles, or may be used interchangeably in different ways, this generalized guide does not discharge the Petitioner's burden to resolve the noted discrepancies in a meaningful way. As previously stated, the Petitioner's substantive work as well as his position titles are discrepant, and the Petitioner has not resolved this with persuasive explanations or sufficient corroborative evidence.

Based upon the information the Petitioner provided, we conclude that the Petitioner's arguments and evidence are insufficient to overcome the Director's concerns of misrepresentation in the Petitioner's work history.

III. CONCLUSION

Because the Petitioner has not provided consistent information regarding his proposed endeavor, we cannot conclude that he meets either the first or second Dhanasar prong or that he has established eligibility for a national interest waiver. In addition, the Director determined that the Petitioner made material misrepresentations relating to his work history, and by filing a petition, the Petitioner sought to procure a benefit provided under the Act through willful misrepresentation of a material fact. We conclude that the evidence provided in response to the Director's NOID and within the Petitioner's appeal has not overcome this finding. The Director's finding of misrepresentation may be considered in any future proceeding where admissibility is an issue. The appeal will be dismissed for the above stated reasons.

ORDER: The appeal is dismissed.